THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.16218 OF 2005

ORDER:

When vacate petition filed by the respondents is listed for hearing, at the request of the learned counsel for both parties, the main Writ Petition itself is heard and decided.

Writ Petition is filed seeking a declaration that the action of the respondents in seeking to recover 25% of rebate sanctioned to the petitioner earlier under the impugned proceedings dated 6.7.2005 as arbitrary and illegal.

The petitioner claims to be a Small Scale Industry, which is eligible for rebate as contemplated under G.O.Ms.No.108 Industries and Commerce (IP) Department, dated 20.5.1996. It is stated that as per the said Government Order entrepreneurs were extended certain incentives and the General Manager of the District Industries issued necessary eligibility certificate to the petitioner. The petitioner states that in terms of the Government Order, by proceedings dated 28.2.2005 Government ordered release of investment subsidy of Rs.14,39,940/- to the petitioner-firm. However, subsequently when the respondents have cancelled the eligibility of allowing 25% of rebate in consumption charges to the petitioner-firm, the petitioner filed Writ Petition No.5017 of 2003. The said Writ Petition was disposed of by this Court leaving it open to the 2nd respondent to issue notice to the petitioner and to pass appropriate orders duly taking into account the explanation that may be submitted by the petitioner. It is not in dispute that in pursuance thereof, the second respondent issued a notice calling upon the petitioner to show cause why 25% of rebate allowed to it should not be cancelled. The petitioner submitted a detailed explanation dated 7.11.2003 explaining all the aspects and requesting to withdraw the notice issued for cancellation of rebate sanctioned to it earlier. However, the impugned proceedings dated 6.7.2005 were issued intimating the petitioner that it is not entitled to avail 25% of rebate on consumption charges as the service was released on 31.12.2000. The petitioner is also directed to refund a sum of Rs.8,94,362/- towards the rebate availed for the period from January, 2001 to February, 2003, within a period of 15 days from the date of receipt of the said

proceedings. Aggrieved by the said action of the respondents, this Writ Petition is filed.

I have heard the learned counsel appearing for both the parties and perused the material on record.

At the outset it is to be noted that in response to the notice issued by the respondents the petitioner submitted a detailed explanation explaining that the petitioner is entitled for continuation of 25% of rebate in consumption charges and also bringing to the notice of the respondents that by proceedings dated 17.4.2001, the petitioner was earlier granted such rebate and there were no subsequent orders withdrawing the same. Strangely, the 2nd respondent passed the impugned order without assigning any reasons to support his conclusion that the petitioner is not entitled to 25% of rebate. Such a cryptic order, which was devoid of any reasons undoubtedly, is unsustainable. The law is well settled that absence of reasons is one of the grounds for Judicial Review since the failure to assign reasons would result in violation of the principles of natural justice. In the circumstances, I am of the view that the impugned order is liable to be set aside on that ground alone.

Accordingly, without expressing any opinion on merits, the impugned order dated 6.7.2005 is set aside and the Writ Petition is disposed of with a direction to the 1st respondent to consider the matter afresh taking into consideration the detailed explanation submitted by the petitioner and to pass appropriate orders in accordance with law as expeditiously as possible, preferably within a period of four weeks from the date of receipt of this order. It is also made clear that the petitioner shall be heard in person before passing any order pursuant to this order. It is also made clear that till such orders are passed, power supply to the petitioner shall not be disconnected.

The Writ Petition is accordingly allowed. No costs.

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G. ROHINI, J.

9th September, 2005.

Kgr